nition of the military service of aliens who should be honorably discharged from the service of this country, and as amended (Act of Feb. 18, 1875, ch. 80, 18 Stat. L. 318, Fed. Stat. Annot., Vol. 5, p. 207, R. S. of U. S., § 2169) the provisions of the act were confined to "aliens being free white persons and to aliens of African nativity and to persons of African descent." The policy of our government in regard to the naturalization of aliens has been to limit the privilege of naturalization to white persons, and the only distinct departure was in regard to the negro at the close of the Civil War. A native of Mexico is eligible to American citizenship whatever may be his status from the standpoint of the ethnologist. *In re Rodriguez,* 81 Fed. 337. However, a native of the Hawaiian Islands was in 1889 held ineligible for naturalization as belonging to the Malay race. *In re Kanaka Nian,* 6 Utah 259. So an Indian born in British Columbia was refused naturalization. *In re Burton,* 1 Alaska 111. And a person whose father was a white Canadian and his mother an Indian woman was held barred by the statute. *In re Camille,* 6 Fed. 256. Mongolians and persons belonging to the Chinese race are not open to naturalization. *Fong Yue Ting* v. *United States,* 149 U. S. 716; *In re Ah Yup,* 5 Sawy. 155; *United States* v. *Wong Kim Ark,* 169 U. S. 649; *In re Gee Hop,* 71 Fed. 274; *In re Hong Yeng Chang,* 84 Cal. 163. In regard to the Japanese it has been held before that under our naturalization laws they are ineligible to citizenship. *In re Saito* (1894), 62 Fed. 126; *In re Yamasshita* (1902), 30 Wash. 234. To quote from DEADY, J., in *In re Camille* (supra), "There is this to be said in excuse for this seeming inconsistency: the negroes of Africa were not likely to emigrate to this country, and therefore the provision concerning them was merely a harmless piece of legislative buncombe, while the Indian and Chinaman were in our midst and at our doors and only too willing to assume the mantle of American sovereignty, which we so ostentatiously offered to the African, but denied to them."

BANKRUPTCY—SUIT BY TRUSTEE—RECOVERY OF PROPERTY TRANSFERRED BY BANKRUPT.—I, trustee of the C.-E. Co., a mercantile corporations in N. Y. against which involuntary proceedings in bankruptcy had been filed, brought an action against a Trust Company under §§ 60 b and 67 e of The Bankruptcy Act of July 1, 1898, c. 541, and also under § 48 of the Stock Corporation Law of New York (Laws 1892, p. 1838, c. 688) to recover moneys placed on deposit with the Trust Co. The defendant had in its possession certain notes then due, certain demand notes, and a note not yet due when the bankruptcy proceedings had begun, all of which were charged against the deposit within four months of the time of the bankruptcy proceeding. The assets of the insolvent company were entirely insufficient to meet its liabilities. *Held,* that while the payments were voidable under both § 48 of the state Stock Corporation Law and § 67 e of the Bankruptcy Act, supra, the trustee could recover the same only to the extent of the note which was not yet due, since as to the demand notes the bank had a lien or right of set-off which it could exercise against the bankrupt or its trustee. *Irish* v. *Citizens' Trust Co.* (1908), — D. C., N. D., N. Y. —, 163 Fed. 880.

The court held that the bank did not have reasonable cause to believe that the debtor was insolvent or intended a preference which would render the payment recoverable as a preference under § 60 of the Bankruptcy Act. A creditor may retain preferences received within four months of the adjudication of bankruptcy if he did not have cause to believe that it was intended as a preference or with knowledge of insolvency. *McNair* v. *McIntyre,* 113 Fed. 113; *In re Maher,* 144 Fed. 503; *Johnston* v. *Anderson,* 70 Neb. 233, 97 N. W. 339. Where at the time of appointment of a receiver for a corporation it was indebted to a bank in a sum largely exceeding the amount of the corporation deposits, the bank is entitled to set-off such deposits against the corporation indebted to it. *Wheaton* v. *Daily Tel. Co.,* 124 Fed. 61. Where a general depositor becomes indebted to the bank and the debt is due, the bank may apply the deposit to the payment of the debt. *Aurora Nat. Bk.* v. *Dils,* 18 Ind. App. 319, 48 N. E. 19. There seems to be some conflict as to the general rule regarding the rights of a bank to charge a depositor's account with a debt not yet due. In the principal case the court held that the trustee could recover the amount of the note which did not mature till after bankruptcy. *Neely* v. *Grayson Co. Nat. Bk.,* 25 Tex. Civ. App. 513, 61 S. W. 559, however, holds that as against third persons and the depositor himself the bank has the right to set-off unmatured debts against deposits. In accord with *Neely* v. *Grayson* are *Kentucky Flour Co.'s Assignee* v. *Merchants Nat. Bk.,* 90 Ky. 225, 13 S. W. 910; *Armstrong* v. *Warner,* 49 Ohio St. 376, 31 N. E. 877; *Hodgin* v. *Bk.,* 125 N. C. 503, 32 S. E. 887; *Schuler* v. *Israel,* 120 U. S. 506. If a debtor be insolvent, a bank may offset as against a debt not due any sum it may be owing to the debtor unless the account which it owes has been pledged to a special purpose or is impressed with some trust. *Scott* v. *Armstrong,* 144 U. S. 479; *Schuler* v. *Israel,* 120 U. S. 506. A bank may charge a deposit whether the debt is due or not. *Sweetzer* v. *People's Bank of Minneapolis,* 69 Minn. 196; *Owen* v. *Amer. Natnl Bk.,* 36 Tex. Civ. App. 490.

CARRIERS—DUTY TO PERSON RIDING ON ENGINE.—On invitation of the conductor and engineer of the defendant's passenger train, the plaintiff's intestate rode on the engine of such train. Through a defect in the track the train was derailed, which caused the death of the intestate. *Held,* the burden of showing authority in the conductor and engineer to allow the deceased to ride on the engine is upon the plaintiff. In the absence of such proof, the presumption is that the deceased was a trespasser, and even though negligent, the defendant is not liable. *Morris* v. *Georgia R. & Banking Co.* (1908), — Ga. —, 62 S. E. 579.

Actionable negligence exists only when one negligently injures another, to whom he owes the duty of exercising care. *Burdick* v. *Cheadle,* 26 Ohio St. 393; *Pittsburgh, etc., Ry.* v. *Bingham,* 29 Ohio St. 364; *Elster* v. *Springfield,* 49 Ohio St. 82. No degree of care is owing to a mere trespasser. *Singleton* v. *Felton,* 101 Fed. 526; *Southern Ry.* v. *Shaw,* 86 Fed. 865; *Pittsburgh, etc., Ry.* v. *Redding,* 140 Ind. 101; *Planz.* v. *B. & A. R. R.,* 157 Mass. 377; *Mendehall* v. *Atch., etc., Ry.,* 66 Kan. 438; *Handley* v. *Mo. Pac. Ry.,* 61 Kan. 237. The court in the principal case says, "Whether the decedent was a passenger